IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 4321 of 2004

Between:

1. Bodipudi Vera Venkata Satyanarayana, S/o.Sarvarayudu,
Venkataramanna Gudem, Tadepalligudem Mandal, West Godavari Dist.
2. Abburi Raghavaiah, S/o.Rama Murthy,
Venkataramanna Gudem, Tadepalligudem Mandal, West Godavari Dist.

..... PETITIONERS

AND

1.The District Collector, West Godavari Dist., Eluru.
2.The District Panchayath officer, West Godavari Dist., Eluru.
3.Mandal Revenue officer,Tadepalligudem Mandal, Tadepalligudem,W.G, Dist.
4.Mandal Development officer, Tadepalligudem Mandal, W.G.Dist.
5.Venkataramanna Gudem Gram Panchayath, rep.by its Village
Secretary, Tadepalligudem Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ more particularly the nature of writ of Mandamus declaring the action of the respondents disturbing the existing 'Pucca Drain' and structure in front of our houses of petitioners without prior notice in Ramalayam veedi of Venkataramanna Gudem village, Tadepalli-gudem Mandal, West Godavari District for the purpose of laying road, as illegal.

Counsel for the Petitioners:MR.P.VINAYAKA SWAMY

Counsel for the Respondents 1 to 4: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.5: Sri D.Srinivas, SC for Gram Panchayat

The Court made the following :

ORDER:

The two petitioners are residents of Venkataramanna Gudem Village. They own houses in Ramalayam Street. It is their case that there was a puntha in front of petitioners' houses with an open drain. According to petitioners said open drain was reconstructed in the year 1998-99. However, they allege that a surveyor conducted survey for extending width of the road beyond the drainage and also proposed to remove the structures allegedly belonging to petitioners. Apprehending that in the extension of the road as well as drainage they might suffer loss, they made a representation to the District Collector on 23.2.2004. Even before any action is taken, they filed present Writ Petition praying for a Writ of Mandamus declaring the action of respondents in constructing pucca drain and structures in front of their houses as illegal and arbitrary.

This Court ordered *Rule nisi* and passed interim order on 9.3.2004 directing respondents not to disturb the existing pucca drain while laying road in Ramalayam Village of Venkataramanna Gudem Village. Venkatramanna Gudem Gram Panchayat, fifth respondent, has now come forward with an application being W.V.M.P.No.912 of 2004 seeking vacation of the interim order. Though interlocutory applications are listed, with the consent of the learned counsel for the petitioners and the learned Standing Counsel for the fifth respondent Gram Panchayat, the Writ Petition itself is heard finally and is being disposed of.

In the counter affidavit filed along with the W.V.M.P. it is stated that first petitioner has encroached the road margin and erected a pendal. The Gram Panchayat received funds and therefore passed a resolution to remove encroachments on the main road. After coming to know of the resolution, petitioners approached this Court and obtained interim order. As it is proposed to extend road by removing encroachments and reconstruct drainage, notice was issued to petitioners on 15.3.2004 requesting them to vacate the encroached portion of road margin.

Whether any open drain has to be constructed at a particular place? or Whether existing pucca drainage has to be strengthened by widening the road? These are issues connected with developmental activities. These issues are not ordinarily justiciable in proceedings under Article 226 of the Constitution of India. Be that as it is, subsequent to filing of the Writ Petition, the petitioners were issued notice on 15.3.2004 alleging that they have encroached road margin. Nothing prevents the petitioners to make a representation to the Gram Panchayat to the notice. In this Writ Petition, no relief can be granted as the issue raised herein is not justiciable.

The Writ Petition, with the above observations, is dismissed. The interim order

dt.9.3.2004 stands vacated. No costs.

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(V.V.S.RAO, J)

23.7.2004

bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The District Collector, West Godavari Dist., Eluru.
2.The District Panchayath officer, West Godavari Dist., Eluru.
3. Mandal Revenue officer,Tadepalligudem Mandal, Tadepalligudem, W.G.Dist.
4. Mandal Development officer, Tadepalligudem Mandal, W.G.Dist.
5. The Village Secretary, Venkataramanna Gudem Gram Panchayath,
Tadepalligudem Mandal, West Godavari District.

6. 2 CCs to GP for Panchayat Raj, High Court Buildings, Hyderabad (OUT)

7. 2CD copies